

Christopher K. Oliveira
Kristen Meredith
CROWLEY FLECK PLLP
900 N. Last Chance Gulch, Suite 200
P. O. Box 797
Helena, Montana 59624-0797
Telephone (406) 449-4165
E-Mail: coliveira@crowleyfleck.com
E-Mail: kmeredith@crowleyfleck.com

*Attorneys for Enterprise RAC Company
of Montana/Wyoming, LLC; Devin
Hutton; and Jordan Cobb*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

<p>KARIS NEWBARY and BRANDIE HOY,</p> <p>Plaintiffs,</p> <p>v.</p> <p>ENTERPRISE RAC COMPANY OF MONTANA/WYOMING, LLC; DEVIN HUTTON; JORDAN COBB; and DOE DEFENDANTS 1-3,</p> <p>Defendants.</p>	<p>Cause No. _____</p> <p>NOTICE OF REMOVAL</p>
---	--

Defendants Enterprise RAC Company of Montana/Wyoming, LLC, Devin Hutton and Jordan Cobb (collectively referred to herein as “Defendants”), by and through their undersigned counsel, and pursuant to 28 U.S.C. §§ 1331, 1367,

1441(a) and 1446 hereby submit this Notice of Removal, removing *Karis Newbary and Brandie Hoy v. Enterprise RAC Company of Montana/Wyoming, LLC; Devin Hutton; Jordan Cobb; and Doe Defendants 1-3*, Cause No. DV-21-12, Montana Fourth Judicial District Court, Missoula County (hereinafter, the “State Court Action”) to the United States District Court for the District of Montana, Missoula Division. The grounds for removal are as follows:

I. The Action.

1. On January 7, 2021, Plaintiffs Karis Newbary and Brandie Hoy (“Plaintiffs”) commenced the State Court Action in the Montana Fourth Judicial District Court, Missoula County. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of the Summons and Complaint and accompanying papers received by Defendants are attached hereto as **Exhibit “A”** and **Exhibit “B”** respectively.

2. That Complaint asserts only Montana state law wrongful discharge claims.

3. On January 14, 2021, Defendants were served with the Complaint and Summons via service on their registered agents in Missoula, Montana.

4. On June 28, 2021, Plaintiffs filed an Amended Complaint. A true and correct copies of the Amended Complaint and Notice of Lawsuit and Request to Acknowledge and Waive Service of Summons are attached hereto as **Exhibit “C”** and **Exhibit “D.”** Both of these documents were received by Defendants by email on July 21, 2021.

5. Defendants' legal counsel signed the Acknowledgement and Waive Service of Summons on August 10, 2021.

6. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of the date upon which the Amended Complaint was served upon the Defendants.

7. All Defendants consent to and jointly file this removal.

8. In accordance with 28 U.S.C. § 1446(d) and Local Rule 3.3(a) of the United States District Court, District of Montana, a copy of this Notice of Removal is being filed with the Clerk of the State District Court for the Fourth Judicial District Court, Missoula County, Montana and is also being served on Plaintiff's attorneys.

II. Federal Question Jurisdiction.

7. This Court has federal question jurisdiction in this matter pursuant to 28 U.S.C. § 1331 because Plaintiff purports to bring claims pursuant to federal statutes, specifically civil claims under the Americans with Disabilities Act (ADA) and the ADA Amendments Act of 2008 (ADAAA), 42 U.S.C. § 12101, *et seq.*; the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621; and the Civil Rights Act Title VII, 42 U.S.C. § 2000e-(2)(a), alleging violations of the aforementioned federal acts by Defendants. *See* Exhibit C, Plaintiffs' Amended Complaint, pp. 13-16 and ¶¶ 37-51. The Court also has pendent jurisdiction over

Plaintiffs' wrongful discharge claims based on Montana statute, which arise from the same nucleus of facts.

8. Further, 28 U.S.C. § 1331 states, "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States." Because this is an action "arising under the...laws...of the United States," this Court has original jurisdiction.

III. Conclusion.

9. As set forth above and in accordance with 28 U.S.C. § 106, 28 U.S.C. § 1441(a) and Local Rule 1.2(c)(5), the State Court Action which was commenced in the Montana Fourth Judicial District Court, Missoula County, Montana, may be removed to the Federal District Court which embraces Missoula County and is within the Missoula District of the United States District Court, District of Montana.

10. Service has been accomplished by mail on August 10, 2021. Defendants' period to answer pursuant to Fed.R.Civ.P. 12(a) is 21 days. The answer is due on August 31, 2021.

WHEREFORE, Defendants remove this case on the basis set forth above.

//

//

//

//

DATED this 19th day of August, 2021.

CROWLEY FLECK PLLP

By: /s/ Christopher K. Oliveira
Christopher K. Oliveira
Kristen Meredith
*Attorneys for Enterprise RAC
Company of Montana/Wyoming, LLC;
Devin Hutton; and Jordan Cobb*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document was served upon the Plaintiffs' counsel of record by the means designated below, this 19th day of August, 2021.

<input checked="" type="checkbox"/> U.S. Mail	David C. Berkoff
<input type="checkbox"/> FedEx	Carey B. Schmidt
<input type="checkbox"/> Hand-Delivery	SCHMIDT BERKOFF, PLLC
<input type="checkbox"/> Facsimile	1917 S. Higgins Avenue
<input type="checkbox"/> Email	Missoula, MT 59801
	carey@blackfootlaw.com
	dberkoff2011@gmail.com
	<i>Attorneys for Plaintiffs</i>

/s/ Christopher K. Oliveira
Christopher K. Oliveira